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ERNESTO HERNANDEZ and GLORIA SACTA, : Case No. 12-CV-1402 (PKC)

PLAINTIFFS :

- against - : NOTICE OF MOTION TO

: DISMISS

:

KALMAN TABAK, ABRAHAM FINKELSTEIN, :

Individually, NEW HOPE FUND LLC, 1195 :

SHERMAN AVE. LLC, 1056 BOYNTON AVE. :

LLC, 437 MORRIS PARK LLC, and AGUILA, :

INC. :

DEFENDANTS. :

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PLEASE TAKE NOTICE that upon the attached declaration of Stuart Weinberger, dated September 6, 2012, the Memorandum of Law in Support of the Motion to Dismiss, and upon the complaint and amended complaint, and all the papers submitted heretofore, defendants Kalman Tabak, Abraham Finkelstein, New Hope Fund LLC, 1195 Sherman Ave. LLC, 1056 Boynton Ave. LLC and 437 Morris Park LLC, will move this court, before the Honorable Judge P. Kevin Castel, U.S.D.J. on October 3, 2012, at 10:00 A.M. at the Daniel Patrick Moynihan United States Courthouse for the Southern District of New York located at 500 Pearl Street, New York, New York, pursuant to the Federal Rules of Civil Procedure (“FRCP”) Rule 12(b)(6), for an order dismissing this entire action against Kalman Tabak and Abraham Finkelstein individually and the collective action claims and spread of hours claim against New Hope Fund LLC, 1195 Sherman Ave. LLC, 1056 Boynton Ave. LLC and 437 Morris Park LLC because of the plaintiff’s failure to state claim upon which relief can be granted and for such other and further relief as this Court may deem just and proper.

/s/ Stuart Weinberger
Stuart Weinberger, Esq.

Goldberg and Weinberger LLP
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